

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

May 8, 2009

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 97od-701

OAHU

Surrender Portion of Leased Premises from General Lease No. 5261, Sand Island Business Association, Lessee; Set Aside to City and County of Honolulu for Wastewater Pump Station; Rescind Prior Board Action of June 13, 1997, Item D-23; Sand Island, Honolulu, Oahu, Tax Map Key: (1) 1-5-041:093.

APPLICANT:

City and County of Honolulu

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of State lands situated at Sand Island, Honolulu, Oahu; identified by Tax Map Key: (1) 1-5-041:093, as shown on the attached map labeled Exhibit A.

AREA:

7,802 square feet, more or less.

ZONING:

State Land Use District: Urban
City and County of Honolulu LUO: I-2

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Encumbered under General Lease No. 5261 to Sand Island Business Association (SIBA)

for Sand Island Industrial Park Purposes.

PURPOSE:

Wastewater Pump Station purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the development of the Sand Island Industrial Park was published on July 28, 1992, and a negative declaration was declared.

APPLICANT REQUIREMENTS:

None. (Note: The subject location is further identified as Lot 75 of Sand Island Industrial Park Subdivision as shown on File Plan 2102.)

REMARKS:

The subject location has been used as the wastewater pump station within the Sand Island Industrial Park, and managed by the City and County of Honolulu (City) since 1995. The City requires a land disposition for the subject pump station.

On June 13, 1997, agenda item D-23, the Board authorized the issuance of a perpetual non-exclusive easement to the City for wastewater pump station. A copy of the 1997 submittal is attached as Exhibit B.

Due to the discussion between the State and the City regarding the conditions of the easement, the document was never consummated. Staff notes that the subject location is fenced off which makes the City has exclusive possession of the property. Therefore, staff does not believe that the 1997 Board action for a non-exclusive easement is the proper form of disposition for the subject request. A Governor's executive order (EO) will be appropriate which will allow the City to assume its control and possession of the facility. Accordingly, staff recommends the Board rescind its prior approval dated June 13, 1997, item D-23.

Condition 21.3 of GL 5261 stipulates that "[a]s long as an authorized mortgage is a lien on the Premises, the BLNR will not (i) accept a voluntary surrender of the Premises or cancellation of this Master Lease from SIBA, ... without the written consent of the mortgagee ... " By letter dated March 19, 2009, SIBA agrees to the proposed withdrawal of Lot 75 and advises the staff that First Hawaiian Bank in SIBA's mortgagee. Upon today approval, staff will seek the written consent from the mortgagee on the request. The proposed use by the City is a requirement of the subdivision approval of the industrial park area. Staff believes the proposed use is the highest and best use of the subject property.

Agencies were solicited for comments during the final environmental assessment stage in 1992. Therefore, staff did not invite comments from other governmental agencies on the

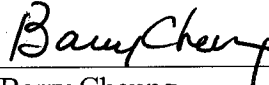
subject request.

There are no other pertinent issues and concerns on the subject request.

RECOMMENDATION: That the Board:

1. Rescinds its prior action dated June 13, 1997, item D-23;
2. Accept the surrender from Sand Island Business Association regarding the subject property under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The standard terms and conditions of the most current surrender form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the City and County of Honolulu under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,


Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

June 13, 1997

Board of Land and
Natural Resources
Honolulu, Hawaii

SUBJECT: Request Board Approval For the Direct Issuance of a
Perpetual Non-Exclusive Easement to The City and County
of Honolulu, Department of Wastewater Management, for a
Wastewater Pump Station at Lot 75 of the Sand Island
Industrial Park Subdivision, Kaholaloa, Sand Island,
Honolulu, Oahu, TMK: 1st/ 1-5-41:93

STATUTE: Section 171-95 Hawaii Revised Statutes, as amended.

APPLICANT:
City and County of Honolulu, Department of Wastewater
Management

FOR: Perpetual, non-exclusive easement for a Wastewater Pump
Station purposes at Lot 75 of the Sand Island
Industrial Park Subdivision, Kaholaloa, Sand Island,
Honolulu, Oahu, further identified as Tax Map Key: 1st/
1-5-41:93, as shown colored in red on the map labeled
Land Board Exhibit "A" and appended to the basic file.

LAND TITLE

STATUS: 5(a) non-ceded.

STATUS: Encumbered by General Lease No. S-5261 issued to the
Sand Island Businessman's Association (SIBA), a master
lease for the Sand Island Industrial Park.

ZONING: State Land Use Commission: Urban
City and County of Honolulu: I-2

LAND AREA:
7,802 sq.ft., more or less, the exact area to be

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

JUN 13 1997

EXHIBIT "B"
ITEM D-23

determined by the State Survey Office, Department of Accounting and General Services.

COMMENCEMENT

DATE: To be determined by the Chairperson.

CHARACTER OF USE:

Wastewater Pump Station.

Consideration:

Gratis.

OEQC TITLE STATUS REQUIREMENTS:

The Final Environmental Assessment for the development of the Sand Island Industrial Park was published on July 28, 1992 and a Negative Declaration was declared. This easement falls under the auspices of said Environmental Assessment.

REMARKS: The Sand Island Businessman's Association in conjunction with the City and County of Honolulu, Department of Wastewater Management are requesting the subject easement for the wastewater pumping station. The wastewater pumping station is needed for the City and County subdivision requirements and development of the Sand Island Industrial Park subdivision. The wastewater pumping station has been under City management since October 10, 1995 and the City and County requires a permanent land disposition for the pumping station.

RECOMMENDATION:

That the Board:

A. Authorize the direct issuance of a perpetual, non-exclusive easement for Wastewater Pump Station purposes to the City and County of Honolulu, Department of Wastewater Management subject to the terms and conditions previously listed, which are by reference incorporated herein, in addition to the following terms and conditions:

1. In the event that the easement becomes abandoned or remains unused for a period of one (1) year, the easement shall automatically terminate and the premises revert to the State of Hawaii.
2. Upon termination of the easement, if it is reasonably necessary, the City and County of Honolulu, shall at its own cost and expense remove any and all improvements installed or

constructed by them and restore the area to a condition satisfactory to the State of Hawaii, Department of Land and Natural Resources, Land Division.

3. The City and County of Honolulu, shall use the respective easements for Wastewater Pump Station and related purposes only.
4. The City and County of Honolulu, shall at all times, with respect to said premises, use due care for public safety.
5. Such other terms and conditions as may be imposed by the Chairperson.

Respectfully submitted,

Cecil B. Santos

Cecil B. Santos
Oahu District Land Agent

[Signature]

[Signature]

APPROVED FOR SUBMITTAL:

for *Michael D. Wilson*
MICHAEL D. WILSON, Chairperson

